

JESSE ELLIOTT.

JUNE 23, 1910.—Ordered to be printed.

Mr. FRAZIER, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 23997.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 23997) for the relief of Jesse Elliott, having considered the same, report thereon with a recommendation that it do pass with an amendment.

A similar bill was considered by the Military Committee of the House during the Fifty-ninth Congress and favorably reported, a copy of said report being hereto appended, as well as the report from the War Department.

[House Report No. 2483, Fifty-ninth Congress, first session.]

The Committee on Military Affairs having considered the bill (H. R. 5504) for the relief of Jesse Elliott submit the following report:

The War Department records show that the soldier was enrolled at Cleveland, Tenn., January 18, 1865, to serve one year, and was mustered into the service on the same day as private in Company G, Fifth Tennessee Mounted Infantry; that he served until February 24, 1865, when he is recorded as having deserted and never thereafter having returned to military control.

The evidence on file shows that this soldier was given a furlough for thirty days during the latter part of February, 1865, to visit his family in Gilmer County, Ga., some 30 or 35 miles distant from the headquarters of his regiment, and that while returning from said furlough to rejoin his command he was killed by the enemy; and it is therefore recommended that the bill do pass.

Case of Jesse Elliott, late private, Company G, Fifth Tennessee Mounted Infantry Volunteers.

A report in this case was furnished the Committee on Military Affairs, United States Senate, on Senate bill No. 2677, Fifty-seventh Congress, first session, January 27, 1902. Following is a copy:

"It is shown by the records that Jesse Elliott (aged 44) was enrolled at Cleveland, Tenn., January 18, 1865, to serve one year and was mustered into service on the same

day as a private in Company G, Fifth Tennessee Mounted Infantry, and that he served until February 24, 1865, when he deserted his command at Cleveland, Tenn., taking with him an Enfield rifle and accoutrements. He did not subsequently return to military control.

"In an application for removal of the charge of desertion and for an honorable discharge, Dorcas Elliott, the widow of the soldier, submitted testimony as follows:

"J. D. Carrell, of Gilmer County Ga., testified March 3, 1888, that he served in the same company and regiment with the soldier; that about the end of February, or beginning of March, 1864 (?), the soldier started for home, as he told the affiant, on a twenty days' furlough; that about a week later affiant also went home on furlough and saw the soldier; that about March 16 or 17, 1864(?), he (the soldier) started back to his command and that Captain Slate's (confederate) company encountered and shot him, so that on April 28 following he died.

"James Painter, of the same county and State, testified, on March 3, 1888, that he knew the soldier before his enlistment and that he saw him at his home about the last of February or the first of March, 1864 (?), on a twenty days' furlough, which affiant saw and thought was signed by Lieutenant Wyatt. This affiant corroborated the testimony of affiant Carrell as to the time, place, and cause of the soldiers' death.

"Cynthia Painter, also of the same county and State, testified on the same date and to the same effect as the last preceding witness, adding that she was one of the women who helped the soldier home after he was shot.

"On May 1, 1888, the application was denied, it being clearly shown by the records that at the date the soldier was alleged to have been shot he was and had been for some time absent in desertion.

"On June 16, 1888, additional testimony was submitted, consisting of an affidavit by James Painter, repeating his former testimony, and one by L. D. Rodgers, who testified, on May 26, 1888, that the soldier had a furlough in his pocket when he was shot.

"On June 19, 1888, the former adverse decision being adhered to, the application was again denied.

"On August 24, 1891, the case was reopened by a new attorney, who submitted an affidavit by the widow, Mrs. Dorcas Elliott, who testified, on August 18, 1891, that her husband obtained a sick furlough for fifteen days, and that before it expired, while en route to rejoin his command, he was intercepted by confederate troops and shot, dying of his wounds on April 28, 1865.

"This application was denied, no record of the alleged furlough having been found; and on June 25, 1892, still another attorney called up the case, submitting testimony as follows:

"Nathan B. Long, who had been a second lieutenant of Company H, Fifth Tennessee Mounted Infantry, testified under date January 2, 1892, that he was on duty at headquarters at Cleveland, Tenn., and was told by Col. S. B. Boyd, in February, 1865, that he had given the soldier a furlough to visit his family, on account of sickness; that the army rule to report all absentees not accounted for caused him to be marked a deserter; that shortly after this it was officially known that the man was killed by the enemy while on his way to rejoin his command, and that the entry of desertion was wrong and did the soldier great injustice, but as the officer who made it did not know the facts he only did his duty.

"John B. Moore testified, February 17, 1892, that he knew the soldier before the war; that he (affiant) was a member of Captain Slate's company, Eleventh Georgia Infantry, Confederate States Army, and later of Capt. John W. Johnson's company or battalion, Confederate States Army, and was serving in 'said company' in February or March, 1865, when Elliott was killed; that affiant was with the command, though not on the ground at the time; that the soldier was dressed in the federal uniform and on his way to the Federal Army; that he saw James Deal take from the soldier's pocket a furlough, and that he examined it; that they had watched for the soldier for a long time, and that he died of the wounds received.

"On July 21, 1891, L. D. Rodgers and James Painter, former affiants, testified jointly that they well knew the soldier; that the former was a member of Capt. William Slate's company of Col. John Johnson's regiment of confederate cavalry, and the latter a neighbor of his, and that they were near Ellijay, Gilmer County, Ga., and knew when the soldier returned home from the Federal Army in February, 1865, and had orders to capture him; that he finally was 'corralled' and fatally wounded and died April 28, 1865, and that he had a fifteen days' furlough, signed by Col. S. B. Boyd, Fifth Tennessee Mounted Infantry, dated February 10, 1865. They also declared that from the middle of February to the day he was shot it was absolutely impossible for him to escape from their forces and rejoin his regiment, and that he was fatally wounded while trying to rejoin his command.

"The same affiants, in another affidavit, dated October 20, 1891, deposed in general terms to the substance of their former statement.

"The widow, Dorcas Elliott, in an affidavit, dated July 27, 1891, declared that her husband made his way through the mountains and enlisted in Company G, Fifth Tennessee Mounted Infantry, in January, 1865, and that on the 10th of February, 1865, he received a furlough and came home and was to return on February 24, 1865; that on attempting to return he was surrounded as before stated. She admitted that it is true that her husband did not return at the expiration of his furlough, but that it was impossible for him to have done so, and that a day or so after when he did attempt it he was 'butchered.' She was sure, she declared, that the furlough was dated February 10, 1865.

"The application for relief was again denied June 27, 1892, on the ground that the man was at the time of his alleged death a deserter at large.

"After an exhaustive search no record has been found that the soldier was furloughed as alleged."

Since the date of the report quoted above the status of the case has not been changed, either by the introduction of new testimony or by legislation.

Respectfully submitted.

F. C. AINSWORTH,
The Military Secretary.

WAR DEPARTMENT,
The MILITARY SECRETARY'S OFFICE,
January 12, 1906.

The SECRETARY OF WAR.

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